

To: Reeves, Bruce@DOC[Bruce.Reeves@conservation.ca.gov]
Cc: Engelman, Alexa[ENGELMAN.ALEXA@EPA.GOV]; Montgomery, Michael[Montgomery.Michael@epa.gov]; Albright, David[Albright.David@epa.gov]
From: Moffatt, Brett
Sent: Tue 8/12/2014 11:48:27 PM
Subject: RE: Early eighties litigation?
19820408 USEPA letter to Mefferd re delays and settlement of litigation.....pdf

Hi Bruce,

There was challenge to US EPA's regulations by industry and the State of Texas in the DC Court of Appeals regarding a number of UIC issues, including the definition of a USDW. You can find the federal register notice which summaries EPA's changes to the regulations resulting from the settlement at 46 FR 48243. These changes included creation of the streamlined process for States to submit, and EPA approve, aquifer exemptions for USDWs with TDS between 3000 and 10,000 ppm (40 CFR 146.4 - or "146.04" at that time) without requiring a Class II program revision. The revised regs also clarified the criteria and information needed for an aquifer to qualify for a mineral or hydrocarbon exemption. It appears that the April 1982 letter refers to the latter. I have not seen anything in our files which suggests that these regulatory revisions help clarify which California aquifers were subsequently approved or disapproved for exemption.

I am on vacation for the rest of this week. Alexa Engelman of our Office of Regional Counsel has also been working on these issues and is available if you have any questions. Her phone number is 415-972-4674 and her email is in the cc.

Thanks,

Brett

Brett Moffatt

US EPA, Region 9

(415) 972-3946

From: Reeves, Bruce@DOC [mailto:Bruce.Reeves@conservation.ca.gov]
Sent: Tuesday, August 12, 2014 2:47 PM

To: Moffatt, Brett
Subject: Early eighties litigation?

Brett, on April 8, 1982, and a couple other places, USEPA personnel make reference to delays in approving primacy being attributable to “the litigation settlement involving the definition of USDW and the effects these changes had on the State aquifer exemption process.” Do you have any idea what litigation settlement that might be? If you do, I’d appreciate seeing a copy.

Bruce Reeves

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